

Case Management Conference that liability discovery has closed. Therefore, Fairchild will not produce a witness on this Topic.


ASHBY & GEDDES

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Dated: July 24, 2006

EXHIBIT H



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July 18, 2006

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VIA FACSIMILE

Michael R. Headley
Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94036

Re: Power Integrations v. Fairchild Semiconductor et al. (CA 04-1371 JJF)

Dear Michael:

I write in regard to Power Integrations' recent 30(b)(6) notices. Fairchild confirms that, subject to its objections, which it will be serving shortly, Mr. Ronald Dupuis will be its testifying witness. As Bas de Blank previously wrote, however, the deposition topics are vague and ambiguous as they do not identify the "accused devices." Please correct this shortcoming immediately so that Mr. Dupuis can be fully prepared.

While Mr. Dupuis works in Portland, Maine, he is available for deposition in the Bay Area on Thursday, August 3, 2006. Please confirm whether Power Integrations will be able to proceed with his deposition at that time.

Fairchild is currently searching for and gathering documents responsive to the deposition topics. Fairchild hopes to produce responsive documents no later than Tuesday, July 18, 2006.

Sincerely,



Brian H. VanderZanden
BHV:ma5

cc: William J. Marsden, Jr.
Howard G. Pollack

EXHIBIT I

**EXHIBIT REDACTED
IN ITS ENTIRETY**

EXHIBIT J



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VIA FACSIMILE

David J. Miclean
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Re: Power Integrations v. Fairchild Semiconductor et al. (CA 04-1371 JJF)

Dear David:

I write in response to your letter of August 10, 2006. Mr. Dupois was produced as a 30(b)(6) witness to address Power Integrations' concerns that Fairchild had manufactured accused devices within the United States. Mr. Dupois clearly testified that none of the devices accused by Power Integrations have ever been manufactured in the United States. Therefore, Power Integrations does not need and is not entitled to further discovery on this issue.

Your letter repeatedly refers to Fairchild's FSD210HD device and demands additional documents and testimony concerning this product. Power Integrations has long been aware of this device and has made the calculated decision not to accuse it of infringement. Discovery concerning such non-accused devices is simply not relevant to this litigation.

Sincerely,

Bas de Blank

cc: William J. Marsden, Jr.
Howard G. Pollack

EXHIBIT K

**EXHIBIT REDACTED
IN ITS ENTIRETY**

EXHIBIT L

POWER INTEGRATIONS V. FAIRCHILD SEMICONDUCTOR GU-YEON WEI

FEBRUARY 17, 2006

Page 1

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

POWER INTEGRATIONS, INC.,
a Delaware corporation,

Plaintiff,

vs.

Case No. 04-1371 JJF

FAIRCHILD SEMICONDUCTOR
INTERNATIONAL, INC., a
Delaware Corporation, and
FAIRCHILD SEMICONDUCTOR
CORPORATION, a Delaware
corporation,

Defendants.

/

DEPOSITION OF GU-YEON WEI
FRIDAY, FEBRUARY 17, 2006
PAGES 1 to 60

REPORTED BY: LOUISE MARIE SOUSOURES, CSR NO. 3575

<p style="text-align: right;">Page 6</p> <p>1 LLC, 182 Second Street, Suite 202, San Francisco, 2 California, 94105, telephone is 415-624-1300. 3 The court reporter is Louise Sousoures for 4 Comp-U-Scripts/Grossman & Cotter/Weber & Volzing. 5 Would counsel present please identify 6 themselves and state whom they represent. 7 MR. POLLACK: Howard Pollack of Fish & 8 Richardson representing Power Integrations. 9 MR. de BLANK: Bas de Blank of Orrick, 10 Herrington & Sutcliffe representing Fairchild 11 Semiconductor International, Incorporated and 12 Fairchild Semiconductor Corporation. 13 THE VIDEOGRAPHER: If there are no 14 stipulations, the court reporter may administer the 15 oath. 16 GU-YEON WEI, 17 called as a witness by the Plaintiff, and who, being 18 first duly sworn, was thereupon examined and 19 testified as hereinafter set forth. 20 EXAMINATION BY MR. POLLACK: 21 Q. Good afternoon, Dr. Wei. 22 A. Good afternoon. 23 Q. Can you please state your full name and 24 address for the record? 25 A. Gu-Yeon Wei, my address is 173 Pleasant</p>	<p style="text-align: right;">Page 8</p> <p>1 Can you do that for me? 2 A. Yes. 3 Q. From time to time, your attorney, Mr. de 4 Blank, might make an objection. He is doing that to 5 preserve it for the record. Just because he objects 6 to the question doesn't mean you don't have to answer 7 it if you understand it. 8 Is that okay? 9 A. Yes. 10 Q. Is there any reason that you can think of 11 that you can't give any -- can't give testimony here 12 today? 13 A. No. 14 Q. Great. 15 MR. POLLACK: 16 (Exhibit No. 1 was marked.) 17 BY MR. POLLACK: 18 Q. Dr. Wei, I've had marked as Exhibit Wei 1 a 19 document entitled "Rebuttal expert report of Gu-Yeon 20 Wei on Fairchild's alleged copying of Power 21 Integrations' devices and patents." 22 Do you recognize Exhibit 1? 23 A. Yes, I do. 24 Q. Is this a report that you prepared as part 25 of your work on this matter?</p>
<p style="text-align: right;">Page 7</p> <p>1 Street, Apartment 404, Cambridge, Massachusetts, 2 02139. 3 Q. Have you ever had your deposition taken 4 before? 5 A. No, I have not. 6 Q. I know you've been to a few, so you have a 7 general sense for what goes on, but just so we're all 8 clear, basically I'm going to ask you a series of 9 questions, it's my intent to get your best and most 10 complete answer. 11 So if there's anything about my question you 12 don't understand, it's confusing in any way, please 13 let me know and I'll do my best to rephrase it so you 14 understand it. 15 Can you do that for me? 16 A. Yes. 17 Q. Everything we say is being taken down both 18 by video but also by the court reporter. 19 So it's important, two things, one that when 20 you answer a question, you answer verbally; nods or 21 shakes of the head are sometimes hard to transcribe. 22 The other thing is it's important for you to 23 wait until I finish my question before you answer and 24 I'll try to do the same so we're not talking on top 25 of one another.</p>	<p style="text-align: right;">Page 9</p> <p>1 A. Yes. 2 Q. If you would turn for me to what is marked 3 as Exhibit A of Exhibit 1 and Exhibit A is an 4 eight-page document. 5 Do you recognize Exhibit A to your report? 6 A. Yes, I do. 7 Q. What is Exhibit A to your report? 8 A. This is my CV. 9 Q. Is the CV that's attached to your report, 10 Exhibit 1, is this current as of approximately 11 January of this year? 12 A. Yes, it is. 13 Q. So from your CV, which is attached to 14 Exhibit 1, am I correct in understanding that as of 15 1998, you were in school at Stanford working on your 16 Ph.D.; is that right? 17 A. Yes. I actually began my Ph.D. work in 18 1994, '95 but did not receive my M.S. until '97 19 mainly as a technical -- administrative reason. 20 Q. Now, during the time you were in school, 21 between 1994 and 2001 when you received your Ph.D. 22 degree, were you also employed by anyone other than 23 Stanford? 24 A. Yes. I was employed with a company called 25 Accelerant Networks from August of 2000 and also, I</p>

<p style="text-align: right;">Page 14</p> <p>1 that he filed in this case; is that right?</p> <p>2 MR. de BLANK: Objection, vague.</p> <p>3 THE WITNESS: I have reviewed Dr. Horowitz's</p> <p>4 reports.</p> <p>5 BY MR. POLLACK:</p> <p>6 Q. Is it your understanding that Dr. Horowitz</p> <p>7 did not rely on this alleged difference in generating</p> <p>8 a DC max signal to assert that because of that, the</p> <p>9 Fairchild products at issue don't infringe the patent</p> <p>10 claims?</p> <p>11 A. From my recollection, I do not believe that</p> <p>12 his report included some of the descriptions here.</p> <p>13 Q. So although you've provided a description of</p> <p>14 the differences you see in the two implementations,</p> <p>15 is it your understanding that Dr. Horowitz hasn't</p> <p>16 relied on those differences that you point out in</p> <p>17 asserting that the Fairchild products don't infringe</p> <p>18 the claims that are asserted in PI's patents?</p> <p>19 MR. de BLANK: Objection, calls for</p> <p>20 speculation.</p> <p>21 THE WITNESS: As far as I remember -- well,</p> <p>22 first, I believe I wrote these sections or these</p> <p>23 paragraphs after Dr. Horowitz's initial invalidity</p> <p>24 report and therefore, I do not believe he would have</p> <p>25 seen them prior to the submission of his report.</p>	<p style="text-align: right;">Page 16</p> <p>1 report?</p> <p>2 A. Yes, I do.</p> <p>3 MR. de BLANK: I'm sorry, Howard, do you</p> <p>4 have a copy?</p> <p>5 MR. POLLACK: Sorry.</p> <p>6 MR. de BLANK: Thank you.</p> <p>7 BY MR. POLLACK:</p> <p>8 Q. You've seen this document before?</p> <p>9 A. I have skimmed the document.</p> <p>10 Q. First, the DC max aspect of the patents,</p> <p>11 that -- am I correct is it your understanding that</p> <p>12 the DC max signal is something that's only called out</p> <p>13 in the '366 and '851 patents?</p> <p>14 MR. de BLANK: Objection, vague. Are you</p> <p>15 saying DC max or do you mean DMAX? I'm sorry, I</p> <p>16 don't mean to interrupt. I wasn't sure what you were</p> <p>17 referring to.</p> <p>18 THE WITNESS: Should I answer, okay.</p> <p>19 BY MR. POLLACK:</p> <p>20 Q. Go ahead.</p> <p>21 A. The DMAX signal I remember is only in the</p> <p>22 '366 and the '851 patents, yes.</p> <p>23 Q. So I'll refer you to page 7 of Dr.</p> <p>24 Horowitz's rebuttal report which is where his</p> <p>25 discussion of the '851 patent, claim 1 starts and if</p>
<p style="text-align: right;">Page 15</p> <p>1 So -- does that answer your question?</p> <p>2 BY MR. POLLACK:</p> <p>3 Q. Well, I guess it's not really your</p> <p>4 recitation specifically that I'm asking, but in</p> <p>5 Dr. Horowitz's report where he asserts his opinions</p> <p>6 that the Fairchild parts do not infringe, he doesn't</p> <p>7 rely on the DC max differences that you point out</p> <p>8 here in asserting that's a reason the patents don't</p> <p>9 infringe, to your understanding?</p> <p>10 A. I would have to take a closer look at his</p> <p>11 report, but -- I can't exactly remember what his</p> <p>12 arguments were in reference to the DMAX signal and</p> <p>13 whether they infringed or whether they were invalid</p> <p>14 or not.</p> <p>15 So actually in order to answer that question</p> <p>16 more accurately, I would actually like to look over</p> <p>17 his documents or maybe come back after reviewing</p> <p>18 those documents.</p> <p>19 Q. Okay. This was marked in Dr. Horowitz's</p> <p>20 deposition, so I'm not going to remark it, but I'll</p> <p>21 hand you what is entitled "Rebuttal expert report of</p> <p>22 Paul Horowitz on noninfringement of U.S. patents</p> <p>23 No. 6,107,851, 6,229,366 and 6,249,876."</p> <p>24 First of all, do you recognize what I've</p> <p>25 just handed you as Dr. Horowitz's noninfringement</p>	<p style="text-align: right;">Page 17</p> <p>1 you would take a look through his discussion of claim</p> <p>2 1 of the '851 patent and let me know if that</p> <p>3 refreshes your recollection as to whether he relied</p> <p>4 on any differences in generating a maximum duty cycle</p> <p>5 signal in asserting being noninfringement.</p> <p>6 A. So based on my perusal at this point, Dr.</p> <p>7 Horowitz does not seem to utilize the description</p> <p>8 I've placed in my report in reference to the DMAX</p> <p>9 signal in his arguments.</p> <p>10 Q. Okay. Just to cover the '366 patent, I'll</p> <p>11 refer you to page 14 of Dr. Horowitz's report which</p> <p>12 is where he starts his discussion of the '366 patent</p> <p>13 claim 1 and ask you to take a look through that</p> <p>14 section and confirm for me the same is true with</p> <p>15 regard to his arguments on the '366 patent.</p> <p>16 A. So I would have to take maybe a closer look</p> <p>17 at the, since it's been quite a while, at the</p> <p>18 Unitrode devices, but it does state in his report</p> <p>19 that -- it says here I have found in my report of</p> <p>20 11-30-05 that claim 1 is clearly anticipated or</p> <p>21 rendered obvious by at least the Unitrode UCC3800</p> <p>22 series of switchmode converter ICs, and if I remember</p> <p>23 correctly, there is circuitry within those series</p> <p>24 devices that resembles the usage of something like a</p> <p>25 DMAX signal in that circuitry and therefore, maybe</p>

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Page 24

1 sake, the other related patent is the '876 patent and
2 his discussion of the '876 patent, claim 1, starts at
3 page 20 of his report.

4 A. So again, I do not believe Dr. Horowitz
5 draws that distinction in his report.

6 Q. Okay. As part of your work on this case,
7 you've reviewed the three patents, three circuit
8 patents that have been asserted by Power
9 Integrations, correct?

10 A. Yes.

11 Q. It's not a memory test, so I'll just give
12 you a copy specifically because I want to ask you
13 about the '876 patent. And I'm not going to mark
14 this.

15 MR. de BLANK: Thank you.

16 BY MR. POLLACK:

17 Q. Based on your reading of the patent, am I
18 correct in understanding the '876 patent expressly
19 refers to using a voltage controlled oscillator as a
20 possible embodiment of what's shown in the '876
21 patent?

22 MR. de BLANK: Objection, the document
23 speaks for itself.

24 THE WITNESS: So I believe there's a
25 paragraph within the specification that states that a

1 specifically targeting EMI, whereas frequency
2 modulation, I intended to be a little bit broader and
3 not as restrictive.

4 Q. Later on in your report, this is at page 13,
5 in paragraph 39, you're addressing the FSDM311, but
6 the last sentence of that paragraph says that this
7 device does not have frequency dither or frequency
8 variation features.

9 Did you intend to, again, refer to frequency
10 dither as something different from frequency
11 variation in this paragraph?

12 A. In this paragraph, I was stating that based
13 on my description prior of frequency dither and the
14 description of frequency variation, this device had
15 neither of those two.

16 Q. So you are making a distinction those are
17 separate things in this analysis?

18 A. In this analysis, again, as I described
19 before, frequency dither was intended to specifically
20 describe a method for EMI frequency variation --
21 modulation. Hmm, so let me read this one more time
22 just to refresh my memory.

23 So frequency variation here is a broader
24 term in terms of any way of changing the frequency.

25 And I was basically stating here that there

Page 23

Page 25

1 voltage controlled oscillator may be used. However,
2 it's not clearly shown how that would be the case.

3 Sorry.

4 BY MR. POLLACK:

5 Q. Are you finished?

6 A. Yes.

7 Q. Okay. Referring you back to your report,
8 which we've marked as Exhibit 1, so I'd like to refer
9 you to page 10 of the report.

10 And the bullet points at the top which
11 continues, just for your reference, from a list
12 started on page 9, these are -- am I correct in
13 understanding these are different features that are
14 possible features of a PWM controller circuit that
15 you're listing as features that are potentially
16 available in these types of devices?

17 A. Yes.

18 Q. I notice that the last two, you've broken
19 out something called frequency dithering and then a
20 separate bullet as frequency modulation.

21 Am I correct in understanding that you
22 believe that those two things are different features
23 that are potentially available in a PWM controller?

24 A. Yes. I -- well, I chose to describe
25 frequency dithering to be a little bit more specific,

1 was no frequency dither method to reduce EMI nor
2 any -- at least my understanding of the circuitry was
3 that there was no intentional way of changing the
4 frequency implemented.

5 Q. Okay. In paragraph 31 of your report, at
6 page 11 --

7 A. Sorry.

8 Q. -- in that paragraph, you refer to frequency
9 variation and then you describe different possible
10 purposes of frequency variation, am I correct?

11 A. Yes.

12 Q. One thing you didn't mention is changing
13 frequency to prevent short circuit runaway.

14 Is that a purpose for frequency variation
15 that you're aware of?

16 A. I do recollect that one would or could
17 change the frequency to prevent frequency runaway, I
18 do recollect that.

19 Q. So that would be something that you would
20 maybe want to add to this list as another possible
21 thing you could do with frequency variation?

22 A. Yes, actually that's true.

23 Q. Now, you say in the next paragraph that the
24 '851 patent describes two approaches to implementing
25 frequency dither and that's the first category,

7 (Pages 22 to 25)

<p style="text-align: right;">Page 30</p> <p>1 when I looked at the circuitry, was not specifically 2 the frequency dithering that I had seen for the Power 3 Integrations' devices. 4 Q. And with regard to the LM2588 which is 5 discussed a little further down, on page 20 -- in 6 paragraph 81, excuse me, you refer to that part as 7 having a frequency variation function rather than a 8 frequency dither function, correct? 9 A. Yes. 10 Q. Is that sort of for the same reason as we 11 just discussed with regard to the 2262? 12 A. I believe so, yes. 13 Q. On page 15, paragraph 44 of your report, 14 which is Exhibit 1, first of all, you're discussing 15 here in paragraph 44 the FSD210 series of devices, 16 correct? 17 A. Yes, I am. 18 Q. And in paragraph 44, you say that this 19 counter, referring to the counter shown in the 20 voltage scaling block, is used to also generate 21 signals for soft start as described in the previous 22 section. 23 Am I correct in understanding that at least 24 based on your review of the FSD210 materials, that 25 it's the same counter that's used both to drive the</p>	<p style="text-align: right;">Page 32</p> <p>1 frequency dither, no. However, there were examples 2 of a signal that's shared for frequency variation and 3 soft start. 4 Q. Do you describe that somewhere in your 5 report? 6 A. So if you looked at paragraph 79 -- 78 and 7 79, I describe the soft start function within the 8 TEA2262 and paragraph 79 says that the TEA2262 also 9 implements an ability to reduce a switching frequency 10 by a factor of four during the start-up phase by 11 reducing the charge current in the oscillator by a 12 factor of four. 13 And I believe that, although I guess it's 14 not explicitly stated here in that device, there is a 15 connection between the soft start and the frequency 16 variation, if I remember correctly. 17 Q. But you didn't at least describe such a 18 connection here in your discussion -- in your report 19 Exhibit 1? 20 A. No, I did not. My purpose, I guess, for 21 this was not to try to explicitly draw parallels or 22 distinctions between specific aspects of the patents 23 and the products. 24 So I guess I did not include those. 25 Q. Okay. I'd like to refer you to paragraph 34</p>
<p style="text-align: right;">Page 31</p> <p>1 frequency scaling function and also, to drive the 2 soft start function? 3 A. Yes, there's one counter. 4 Q. And having a single circuit component 5 provide a signal to drive both the soft start 6 function and the frequency dither function, that's 7 also something that's shown in the '366 and '851 8 patents, right? 9 A. I'm sorry, can you repeat that, sorry. 10 MR. POLLACK: Can you read that back? 11 (The record was read by the Reporter.) 12 MR. de BLANK: Objection, vague. 13 MR. POLLACK: I think I said a circuit 14 component. 15 (The record was read by the Reporter.) 16 THE WITNESS: Yes, there is a single 17 oscillator circuit in the patents. 18 BY MR. POLLACK: 19 Q. And in discussing the various other 20 potential prior art devices in your report, you 21 didn't point to any of those other devices as having 22 a similar feature of driving two functions, 23 specifically frequency dither and soft start, with 24 the same signal, correct? 25 A. There was no -- so in my description of</p>	<p style="text-align: right;">Page 33</p> <p>1 of your report, Exhibit 1, which is at page 12. 2 The last sentence of paragraph 34 says 3 "While the patent briefly mentions that a similar 4 implementation is possible by combining voltages, 5 such an implementation is not obvious." 6 What do you mean by not obvious there? 7 A. Oh, so what I meant by not obvious here is 8 that in the patent, there was a clear description 9 with several figures showing how one can combine 10 currents. 11 And however, for the case of voltages, there 12 was -- there was no corresponding figures or 13 corresponding detailed description and therefore, 14 upon just reading -- it appeared to me as if one can 15 just replace current with voltage and try to 16 implement the same thing, but it did not appear 17 obvious to me how one would just replace current 18 sources with voltage sources and get the same result. 19 Q. You were using obvious in sort of the plain 20 English vernacular, wasn't some reference to 21 invalidity -- 22 A. No, no, no. 23 Q. Okay, thank you. 24 A. I guess I leave those things to the 25 attorneys who understand the definitions much better</p>

<p style="text-align: right;">Page 38</p> <p>1 Am I correct in understanding that you're</p> <p>2 addressing differences you see between the</p> <p>3 implementation of soft start in the Fairchild devices</p> <p>4 and what's described associated with the soft start</p> <p>5 feature of, for example, the '366 patent; is that</p> <p>6 correct?</p> <p>7 A. Yes, I believe so, yes.</p> <p>8 Q. And you say that the '366 patent describes a</p> <p>9 low frequency oscillator that generates a soft start</p> <p>10 signal.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Is the low frequency oscillator the only</p> <p>14 possibility that the '366 patent mentions for</p> <p>15 generating a soft start signal?</p> <p>16 A. The '366 patent, if I remember correctly,</p> <p>17 also has -- mentions in the figure 1 a different or</p> <p>18 another way of implementing a form of soft start</p> <p>19 utilizing a soft start capacitor.</p> <p>20 Q. Am I correct -- based on your recollection,</p> <p>21 isn't it true that the '366 patent also mentions that</p> <p>22 a ramp generator can be used to generate the signal</p> <p>23 that drives a soft start?</p> <p>24 A. I don't remember exactly.</p> <p>25 Q. Well, do you recall that the patent, the</p>	<p style="text-align: right;">Page 40</p> <p>1 conversation with Dr. Horowitz about the fact that</p> <p>2 the -- in the Fairchild products, the output of the</p> <p>3 counter and the associated circuitry following that</p> <p>4 counter generated a signal that was a stair-step</p> <p>5 triangle-wave.</p> <p>6 So we did discuss that. Whether it's in the</p> <p>7 report or not, I don't remember.</p> <p>8 Q. Okay.</p> <p>9 MR. POLLACK: We've been going for an hour</p> <p>10 now. Why don't we take a short break.</p> <p>11 THE VIDEOGRAPHER: Off the record at 2:06</p> <p>12 p.m.</p> <p>13 (Recess taken.)</p> <p>14 THE VIDEOGRAPHER: Back on the record at</p> <p>15 2:12 p.m.</p> <p>16 BY MR. POLLACK:</p> <p>17 Q. Dr. Wei, would you agree with me in order to</p> <p>18 copy something, you have to know what that thing is?</p> <p>19 A. Yes.</p> <p>20 Q. And conversely, if you don't know about</p> <p>21 something, you couldn't be considered to have copied</p> <p>22 it, right?</p> <p>23 A. Yes.</p> <p>24 Q. I believe we went through your CV, but just</p> <p>25 confirm for me, you've never worked for Fairchild,</p>
<p style="text-align: right;">Page 39</p> <p>1 '366 patent also says that you can use counter output</p> <p>2 signals as the signal that drives the soft start</p> <p>3 function?</p> <p>4 A. That sounds vaguely familiar.</p> <p>5 Q. But you don't address those different</p> <p>6 alternatives described in the '366 patent in your</p> <p>7 analysis in your report, correct?</p> <p>8 A. In my report, I do not. The -- I was</p> <p>9 focusing primarily on the figures in describing and</p> <p>10 understanding how soft start was being described in</p> <p>11 those patents.</p> <p>12 Q. Okay. In paragraph 91, you're discussing</p> <p>13 differences you see in what's shown in the '876</p> <p>14 patent and what Fairchild does with its frequency</p> <p>15 variation and am I correct one of the differences you</p> <p>16 point out here is that the digital counter and DAC</p> <p>17 used by the Fairchild device provides a stair-step</p> <p>18 triangle-wave form rather than a ramp or a digital</p> <p>19 ramp?</p> <p>20 A. Yes.</p> <p>21 Q. To your recollection, that's not a</p> <p>22 distinction that Dr. Horowitz relies on in his</p> <p>23 asserting noninfringement of the '876 patent, right?</p> <p>24 A. I do not recollect what was written in the</p> <p>25 report, because I do recollect at least one</p>	<p style="text-align: right;">Page 41</p> <p>1 right?</p> <p>2 A. I've never worked for Fairchild, yes.</p> <p>3 Q. And am I correct that in your report, you</p> <p>4 don't refer to or rely on any documents associated</p> <p>5 with Fairchild's research and development of the</p> <p>6 products that are accused of infringing Power</p> <p>7 Integrations' patents, right?</p> <p>8 A. I am -- I've only reviewed Fairchild's data</p> <p>9 sheets, schematics.</p> <p>10 And I have had brief conversations with</p> <p>11 their engineers in regards to how their different</p> <p>12 devices operate.</p> <p>13 Q. You don't refer to or discuss any</p> <p>14 conversations you've had with Fairchild's engineers</p> <p>15 in your report, do you?</p> <p>16 A. No.</p> <p>17 Q. Did you discuss with Fairchild's engineers</p> <p>18 how they went about the process of designing,</p> <p>19 originally designing the circuits that you studied as</p> <p>20 part of your analysis?</p> <p>21 A. No.</p> <p>22 Q. In your report and specifically it's</p> <p>23 attached as Exhibit B, the documents that you say</p> <p>24 that you reviewed, you don't list as materials</p> <p>25 reviewed any deposition transcripts of the Fairchild</p>

<p style="text-align: right;">Page 46</p> <p>1 TEA2262."</p> <p>2 You don't have any knowledge that anyone at</p> <p>3 Power Integrations knew about the TEA2262 when they</p> <p>4 filed for their patents, correct?</p> <p>5 A. No, I do not know.</p> <p>6 Q. And similarly, in paragraph 93, you say,</p> <p>7 "one may equivalently argue that the frequency</p> <p>8 variation circuit found in the '876 patent copied the</p> <p>9 designs shown in the Habetler and Divan and Wang and</p> <p>10 Saunders publications."</p> <p>11 But you don't have any knowledge as to</p> <p>12 whether any of the Power Integrations engineers</p> <p>13 responsible for the '876 patent even knew about those</p> <p>14 articles, right?</p> <p>15 A. I personally have no explicit knowledge as</p> <p>16 to what they know or do not know, yes.</p> <p>17 Q. As part of your work on behalf of Fairchild</p> <p>18 in this matter, did you also support Dr. Horowitz in</p> <p>19 his analysis of the prior art?</p> <p>20 A. Yes, I did.</p> <p>21 Q. In Dr. Horowitz's report on invalidity,</p> <p>22 attached as exhibits, there are various claim charts</p> <p>23 that analyze prior art references.</p> <p>24 You're familiar with those charts?</p> <p>25 A. Yes, I am.</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. Okay. Again, you know, it's not supposed to</p> <p>2 be a memory test, but if you could, to the best of</p> <p>3 your recollection, can you identify for me which of</p> <p>4 the claim charts that are here in Exhibit -- Horowitz</p> <p>5 Exhibit 6 you were involved in preparing?</p> <p>6 A. I was involved in preparing or at least</p> <p>7 looking through most of them. I did look through, I</p> <p>8 believe, every single one of the claim charts.</p> <p>9 I was involved in, shall we say, touching</p> <p>10 some more than others.</p> <p>11 The way these claim charts came about was I</p> <p>12 began with a version of the claim charts that had</p> <p>13 previously been created by the attorneys and then I</p> <p>14 used that as a starting point to then go through and</p> <p>15 make whatever modifications I felt was necessary.</p> <p>16 Q. Okay. So with regard to the claim charts</p> <p>17 that you worked on related to validity, every one of</p> <p>18 the charts that you worked on, had a version of that</p> <p>19 already been prepared by one of Fairchild's attorneys</p> <p>20 before you started working on it?</p> <p>21 A. I don't remember if it was every single one</p> <p>22 because there may have been prior art references that</p> <p>23 were found after the initial claim charts were</p> <p>24 created.</p> <p>25 But for a good number of them, yes, the</p>
<p style="text-align: right;">Page 47</p> <p>1 MR. de BLANK: Objection, vague.</p> <p>2 BY MR. POLLACK:</p> <p>3 Q. Did you, in fact, personally prepare some of</p> <p>4 the charts that were attached as exhibits to Dr.</p> <p>5 Horowitz's invalidity report?</p> <p>6 A. He asked me to help in the process of</p> <p>7 compiling those claim charts, and so yes.</p> <p>8 Q. And I apologize, we did get a Bates stamped</p> <p>9 version of this, but we didn't have time to prepare</p> <p>10 the Bates stamp version as an exhibit.</p> <p>11 This is -- I'm going to hand you what was</p> <p>12 marked during Dr. Horowitz's deposition as Exhibit 6</p> <p>13 and I'll represent to you that this is a set of the</p> <p>14 claim charts that were attached to his invalidity</p> <p>15 report with Dr. Horowitz's handwritten notations</p> <p>16 added. I'll hand that to you. I'll refer to this as</p> <p>17 Horowitz Exhibit 6.</p> <p>18 MR. de BLANK: Thank you.</p> <p>19 BY MR. POLLACK:</p> <p>20 Q. Have you seen the Horowitz Exhibit 6, the</p> <p>21 version of the claim charts with Dr. Horowitz's</p> <p>22 mark-ups on it before?</p> <p>23 A. I've seen a version of this, meaning Dr.</p> <p>24 Horowitz provided me with a copy of some of the pages</p> <p>25 where he had made his notes.</p>	<p style="text-align: right;">Page 49</p> <p>1 claim charts had already been -- had been created in</p> <p>2 some form or another.</p> <p>3 Q. Okay. Where did the references -- prior art</p> <p>4 literature that you analyzed in this case, where did</p> <p>5 you get it from?</p> <p>6 A. The literature I got them either from the</p> <p>7 attorneys or from Dr. Horowitz.</p> <p>8 Q. Did you yourself do any searching to look</p> <p>9 for any prior art references that you independently</p> <p>10 thought might be relevant to the case?</p> <p>11 A. I did do some online searches going</p> <p>12 through -- primarily going through the web pages for</p> <p>13 Fairchild and for Power Integrations. That was my --</p> <p>14 that's where I did most of my looking around and that</p> <p>15 I may have flipped through some databooks that Dr.</p> <p>16 Horowitz had available in his office.</p> <p>17 Q. In, for example, the first page, the first</p> <p>18 claim chart of Horowitz Exhibit 6, I'd like to refer</p> <p>19 you to the discussion there of claim 2.</p> <p>20 And on the right-hand column, the discussion</p> <p>21 says it is inherent.</p> <p>22 Do you have an understanding as to what it's</p> <p>23 meant by it is inherent in the claim charts that you</p> <p>24 worked on in the case?</p> <p>25 A. I have a vague -- I do have a vague</p>

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<p>1 There were other sections where, as I</p> <p>2 described before, I felt it was not too -- it was not</p> <p>3 a stretch to combine a regulator circuit with the</p> <p>4 rectifier circuit whereas Dr. Horowitz at the time</p> <p>5 said, no, let's play it conservatively because there</p> <p>6 was plenty of prior art that did have the rectifier</p> <p>7 circuitry and therefore there was no need to try to</p> <p>8 overextend references, if --</p> <p>9 BY MR. POLLACK:</p> <p>10 Q. Did you have any discussions with any of the</p> <p>11 attorneys about any of the positions that Dr.</p> <p>12 Horowitz, in his more recent review of the claim</p> <p>13 charts, decided needed modification?</p> <p>14 A. One of the attorneys was present during our</p> <p>15 discussions. So to that effect, I guess we -- I did</p> <p>16 consult or speak with one of the attorneys.</p> <p>17 Q. Which of the attorneys is that?</p> <p>18 A. Ms. Feeman.</p> <p>19 Q. Do you -- I'm sorry, strike that.</p> <p>20 Have you presently been asked to do any</p> <p>21 additional work or additional analysis with regard to</p> <p>22 any of the validity issues that you've worked on thus</p> <p>23 far in the case?</p> <p>24 A. At this time, no.</p> <p>25 Q. Have you been asked to do any additional</p>	<p>1 of the '366 patent vis-a-vis the Keller article?</p> <p>2 A. With respect to claim 14?</p> <p>3 Q. Yes.</p> <p>4 A. I do not explicitly recollect the</p> <p>5 conversation but not to say that we didn't have a</p> <p>6 conversation. It's just not ringing a bell right</p> <p>7 now.</p> <p>8 Q. If you would flip a little further along,</p> <p>9 there's a claim chart that starts with the</p> <p>10 handwritten notation E-6?</p> <p>11 A. I assume it's -- I see E-7 so I assume this</p> <p>12 is E-6?</p> <p>13 Q. Actually, keep going. He had the same</p> <p>14 confusion.</p> <p>15 E-6 has a claim chart related to the '851</p> <p>16 patent and the Stasi article.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. If you would flip to the next page, you'll</p> <p>20 see there's a discussion of claim 4, Dr. Horowitz,</p> <p>21 again, has put an X through the analysis of claim 4</p> <p>22 related to this reference.</p> <p>23 Do you have any recollection as to</p> <p>24 discussing this or why he did that for this claim</p> <p>25 chart?</p>
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<p>1 analysis related to the issues of whether any of the</p> <p>2 Fairchild products may or may not infringe any of the</p> <p>3 asserted claims of the PI patents?</p> <p>4 A. At this time, no.</p> <p>5 Q. Other than what's contained in Wei</p> <p>6 Exhibit 1, do you have any present intention of</p> <p>7 providing any additional opinions on any issue that</p> <p>8 might be relevant to the dispute between Power</p> <p>9 Integrations and Fairchild, at least at this point in</p> <p>10 time?</p> <p>11 A. If I'm asked to, I can.</p> <p>12 Currently, I myself have no intention of</p> <p>13 offering more opinions than is asked of me.</p> <p>14 Q. Okay. I'd like to refer you -- you have Dr.</p> <p>15 Horowitz's Exhibit 6 in front of you, if you would</p> <p>16 flip -- and he had done some handwritten page</p> <p>17 numbering at the top right.</p> <p>18 If you will turn to what's got the</p> <p>19 handwritten notation D-16, and D-16 is part of the</p> <p>20 claim chart related to the '366 patent and the Keller</p> <p>21 article, but I'd like to refer you to claim 14 and</p> <p>22 where you see Dr. Horowitz has put Xes through the</p> <p>23 analysis that's shown there for claim 14.</p> <p>24 Did you have any discussion that you can</p> <p>25 recall with Dr. Horowitz about the claim 14 analysis</p>	<p>1 A. I believe I do. When I was constructing</p> <p>2 these claim charts, there was a subtle difference</p> <p>3 between the '366 patents and the '851 patents, where</p> <p>4 I believe in the '851 patent, the same frequency</p> <p>5 variation signal was being used for soft start.</p> <p>6 Whereas in the '366 patent, it describes --</p> <p>7 the claims describe soft start and then there's</p> <p>8 another dependent claim, I believe, that has a</p> <p>9 frequency variation signal but the two were not</p> <p>10 connected explicitly in '366 but they were connected</p> <p>11 in '851.</p> <p>12 I believe in my mind, I was still, since the</p> <p>13 patents were very similar, when the two were within</p> <p>14 the same device, I applied that without -- I should</p> <p>15 have read a little bit more carefully and remembered</p> <p>16 that in the '851 claim, it's the same signal and</p> <p>17 therefore, upon discussion, we came to the</p> <p>18 realization at that time, I believe, that well, this</p> <p>19 doesn't quite apply, because it's not the exact same</p> <p>20 signal.</p> <p>21 I do believe at the time I did posit the</p> <p>22 notion of whether, since there are other products</p> <p>23 that have that -- that do share a signal, that</p> <p>24 someone in the -- who's aware of various art at the</p> <p>25 time may be able to then combine the two signals or</p>

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EXHIBIT M

**EXHIBIT REDACTED
IN ITS ENTIRETY**

EXHIBIT N

EXHIBIT 9**Defendants' Witness List**

Defendants Fairchild Semiconductor International, Inc. and Fairchild Semiconductor Corp. may call one or more of the following witnesses in its case in chief as a live witness. Fairchild reserve the right to have the witness testify through deposition:

Name	Address
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Thomas Beaver	Fairchild Semiconductor Corporation 82 Running Hill Road South Portland, ME 04106
Robert Conrad	Fairchild Semiconductor Corporation 82 Running Hill Road South Portland, ME 04106
Peter Gwozdz <i>Fairchild's Expert Witness</i> Specialty – Semiconductor processes and structures.	College of Engineering San Jose State University San Jose CA 95192
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In addition, Defendants Fairchild Semiconductor International, Inc. and Fairchild Semiconductor Corp. may call one or more of the following witnesses to testify via deposition. Fairchild reserves the right to have them testify as a live witness:

Fairchild will provide this identification along with its deposition designations according to the schedule agreed to by the parties.

EXHIBIT O

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July 21, 2006

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Dear Brian:

Thank you for indicating today that Steve Schott will be available for deposition in California on August 11. We are prepared to go forward with Mr. Schott's deposition at that time in our offices, but I note that it does not make sense to go forward with the deposition at that time if Fairchild intends to instruct Mr. Schott not to answer questions regarding the infringement and/or the validity of Power Integrations' patents-in-suit on grounds of attorney-client privilege, as any privilege on those topics was waived with Fairchild's production of thirteen (13) opinion letters addressed to Mr. Schott on these topics (four of which were produced to us just this week).

The law in this area is clear. In *Novartis Pharmaceuticals Corp. v. Eon Labs Mfg., Inc.*, 206 F.R.D. 396 (D. Del. 2002), the Court held that "where, as here, a party relies on the advice of counsel defense to a charge of willful infringement, the Court concludes that the party has expressly waived its privilege with respect to attorney-client communications and work product documentation." *Novartis*, 206 F.R.D. at 398. When these privileges have been waived, "everything with respect to the subject matter of counsel's advice is discoverable, despite the protection that is normally afforded to attorney-client communications and work product material." *Id.* Earlier this year, the Federal Circuit confirmed that when a party relies on the advice-of-counsel as a defense to willful infringement, the party waives privilege "with regard to any attorney-client communications relating to the same subject matter." *In re EchoStar Comm. Corp.*, 2006 WL 1149528 at *3 (Fed. Cir. May 1, 2006). As such, Fairchild has no basis to assert of the attorney-client privilege with respect to documents and communications regarding infringement and/or the validity of Power Integrations' patents-in-suit.

The parties staked out their respective positions on the scope of waiver on the record during the deposition of Robert Conrad, when Fairchild improperly limited the scope of discovery regarding the subject matter of Fairchild's opinion letters. Specifically, Fairchild's lawyers instructed Mr. Conrad not to answer questions regarding whether the substance of discussions with litigation counsel regarding the patents-in-suit

FISH & RICHARDSON P.C.

Brian VanderZanden
July 21, 2006
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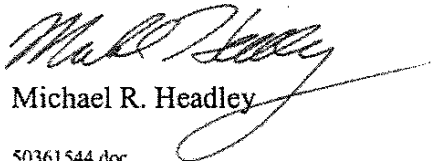
differed in any way from the opinion letters Fairchild produced in this case. (Conrad Tr. at 162-63, 172-73, 179-80, 191.) Fairchild's counsel similarly (and improperly) instructed Gary Dolny with respect to questions regarding his conversations with Steve Schott, allowing Mr. Dolny to provide testimony only as to conversations regarding a specific opinion letter, rather than the subject matter of that letter. (Dolny Tr. at 34-36.)

Fairchild is also withholding a number of documents on the basis of its incorrect assertion of privilege, including documents from Mr. Schott and a number of entries on Fairchild's privilege log that cannot be privileged in light of the clear waiver. For example, entry 180 on Fairchild's supplemental privilege log is labeled as "legal analysis of competitor's patents and/or products at direction of attorney," and Mr. Schott sent it to Fairchild's opinion counsel, Phil Woo (among others). Other entries reflect similar communications with Mr. Schott, including entries 45, 175, 184, 209, 213, 310, 312, 316, 319-320, 322, 327, 329, 336, 340, 342, 355, 362, 364, 367-368, 370-371, 375, 379, 383-386, 388, 390, 393, 408, and 417-420. As such documents are clearly directed to the subject matter of the opinion letters Fairchild produced, there is no basis for withholding them.

In light of the four additional opinion letters Fairchild produced this week, we will need to depose Mr. Conrad again, and given the apparent dispute regarding the scope of waiver, it may make more sense to depose both Mr. Schott and Mr. Conrad in September, as the Court will likely have had time to resolve the issue by that time. To that end, we propose the parties schedule both depositions for the week of September 18.

Let us know your position on this issue as soon as possible so that we can make the best use of the Court's, the parties', and the witnesses' time.

Sincerely,


Michael R. Headley

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Date July 21, 2006

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From Michael R. Headley

Re Power Integrations, Inc. v. Fairchild Semiconductor International

Number of pages
including this page 3

Message Please see attached.

EXHIBIT P

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VIA ELECTRONIC FILING

August 16, 2006

The Honorable Joseph J. Farnan, Jr.
United States District Court
for the District of Delaware
844 King Street
Wilmington, DE 19801

Re: Power Integrations, Inc.'s Withdrawal of it's Motion re Fairchild's Waiver of
Privilege in Reliance on Opinions of Counsel (D.I. 307)
Power Integrations, Inc. v. Fairchild Semiconductor International
USDC-D. Del. - C.A. No. 04-1371-JJF



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WASHINGTON, DC

Dear Judge Farnan:

Power Integrations agrees that the series of concessions Fairchild has made in response to Power Integrations, Inc.'s August 8 motion -- removing its in-house counsel from its trial witness list, producing additional documents from its privilege log, and finally confirming that it will allow unfettered questioning of Mr. Conrad -- largely moots Power Integrations, Inc.'s motion to compel (D.I. 307). The last of these concessions came only by letter on August 15, the day Fairchild filed its opposition (D.I. 317), so Power Integrations had no opportunity to respond and confirm its understanding of the representations being made and thus perhaps avoid the need for Fairchild even to file that opposition.

There do remain a few minor issues relating to the recently-produced and heavily redacted documents on Fairchild's privilege log, but they should be easily worked out. Power Integrations will not maintain its motion for that purpose and hereby withdraws it.

Respectfully submitted,

William J. Marsden, Jr.

cc: Clerk of the Court
Steven J. Balick, Esq. (By Hand)
Bas de Blank, Esq. (By Email)

EXHIBIT Q

**EXHIBIT REDACTED
IN ITS ENTIRETY**

EXHIBIT R

**EXHIBIT REDACTED
IN ITS ENTIRETY**

EXHIBIT S

**EXHIBIT REDACTED
IN ITS ENTIRETY**